

NOTICE OF RULE ADOPTION—FINAL RULE

STATE OF MISSISSIPPI Commission on Environmental Quality Department of Environmental Quality

FILED
JUN 08 2009
MISSISSIPPI
SECRETARY OF STATE

Mississippi Commission on Environmental
Quality

c/o Ted Lampton, Senior Attorney
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Date Rule Proposed: May 12, 2009

Specific Legal Authority Authorizing the promulgation of
Rule:
Miss. Code Ann. 49-2-9(1)(b) Rev. 2003
Reference to Rules repealed, amended or suspended by the
Proposed Rule:
Mississippi Hazardous Waste Management Regulations
(HW - 1)

Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule: This proposed rule will amend the present Mississippi Hazardous Waste Management Regulations by incorporating by reference certain final federal regulations promulgated on October 30, 2008 and December 1, 2008, that will revise the definition of solid waste to exclude certain hazardous secondary materials from regulation to encourage safe, environmentally sound recycling and resource conservation, respond to several court decisions concerning the definition of solid waste, will finalize an alternative set of generator requirements applicable to laboratories owned by eligible academic entities, and will expand the comparable fuels exclusion to newly excluded hazardous secondary materials called "emission-comparable fuel" (ECP). ECP is a hazardous secondary material that, when generated, is handled in such a way that it is not discarded in any phase of management but rather is handled as a valuable commodity. After public notice of this proposed rulemaking EPA proposed to amend or revoke the rules on definition of solid waste and the ECP rule and we are not adopting them at this time until EPA resolves issues.

The Agency Rule Making Record for this rule including any written comments received during the comment period and the record of any oral proceeding is available for public inspection by contacting the Agency at the above address.

☒ An oral proceeding was held on this rule:

Date: Thursday, May 12, 2009
Time: 1:30 PM
Place: Commission Hearing Room, 515 East Amite Street, Jackson, MS.

☐ An oral proceeding was not held on this rule.

The Agency has considered the written comments and the presentations made in any oral proceedings, and

☐ This rule as adopted is without variance from the proposed rule.

☐ This rule as adopted differs from the proposed rule as there are minor editorial changes which affect the form rather than the substance of the rule.

☒ The rule as adopted differs from the proposed rule. The differences however are:

Within the scope of the matter in the notice of proposed rule adoption,

The logical outgrowth of the contents of the Notice of Proposed Rule Adoption and the comments submitted response thereto, and

The Notice of Proposed rule Adoption provided fair warning that the outcome of the proposed rule adoption could be the rule in question.

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Date Rule Adopted: May 28, 2009

Effective Date of Rule: July 10, 2009



Jerry B. Banks
Chief, Groundwater Assessment & Remediation Division